

OUR FILE NUMBER: AMH 36-29378 (JVF/RJC-6)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
TINA L. DeWITT,

Plaintiff,

- against -

STUART E. ZEH,

Defendant.
-----X

**RESPONSE TO
PLAINTIFF'S NOTICE
FOR DISCOVERY AND
INSPECTION/COMBINED
DEMANDS**

Docket No.:
08-CV-01277-PAC

ECF Case

Defendant, responding to the plaintiff's "Notice for Discovery and Inspection and Combined Demands", states as follows:

1. At the time of the subject incident, defendant was covered by a policy of automobile liability insurance issued by American Modern Home Insurance Co., under Policy No. 0017113007, with policy limits of \$500,000. American Modern Home Insurance Co. is located at P.O. Box 5323, Cincinnati, Ohio 45201-5323, and its claim number in this matter is 1939034. The Company's telephone number is 513-943-7200.

2. Defendant is not in possession of any statements taken from or on behalf of the plaintiff herein. Defendant is not currently in possession of any surveillance materials of the type requested.

3. No accident report was prepared in defendant's regular course of business. A police report was prepared, which is available as a public record.

4. Defendant is unaware of the identities of any nonparty witnesses to the subject occurrence.

5. Defendant, as of the present time, has not retained any expert witness in this matter. Upon any such retention, plaintiff's counsel shall be promptly notified.

6. Defendant is not in possession of any photographs of the type requested, other than the black and white copies produced by plaintiff's counsel.

7(a)-(f). Not applicable.

(h). Defendant presently has no access to information concerning any defective equipment, parts, structures, portions or processes of plaintiff's motor vehicle. Said information is within the sole knowledge of plaintiff. Defendant reserves the right to respond more fully upon completion of discovery.

(i)-(t). Not applicable.

(u)-(y). Not applicable.

8. Defendant has not yet designated a physician to examine plaintiff, and reserves the right to do so until after the production of all relevant medical records and information, as well as plaintiff's deposition.

9. As indicated above, defendant is not personally in possession of any surveillance materials, whether films, videotape or photographs. Should such materials be obtained at a future time in this litigation, plaintiff's counsel will be so advised.

Dated: New York, New York
April 29, 2008

Yours, etc.,

BIVONA & COHEN, P.C.
Attorneys for Defendant
STUART E. ZEH
Wall Street Plaza
88 Pine Street – 17th Floor
New York, New York 10005
(212) 363-3100

By: s/
GERALD G. COWEN (3680)

TO:

McGIVNEY & KLUGER, P.C.
Attorneys for Plaintiff
80 Broad Street, Suite 23
New York, New York 10004
(212) 509-3456
File No.: 0032G-223

STATE OF NEW YORK)
 ss:
COUNTY OF NEW YORK)

ARLEEN KAGAN, being duly sworn, hereby deposed and says as follows:

I am not a party to this action and I am over the age of eighteen (18) years and reside in Brooklyn, New York.

On May 1, 2008, I served the within **RESPONSE TO PLAINTIFF'S NOTICE FOR DISCOVERY AND INSPECTION/COMBINED DEMANDS** on the attorneys and parties listed below at the addresses designated by said attorneys and parties for that purpose, by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in a post-office-official depository, under the exclusive care and custody of the United States Postal Service within New York State.

TO:
McGIVNEY & KLUGER, P.C.
Attorneys for Plaintiff
80 Broad Street, 23rd Floor
New 80 Broad Street, 23rd Floor
New York, New York 10004

s/
ARLEEN KAGAN

Sworn to before me this 1st
day of May, 2008.

NOTARY PUBLIC